IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8033 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARDAR VALLABHBHAI REGIONAL COLLEGE OF ENGG. & TECHONOLOGY

Versus

AMRATLAL B FAKOLAWALA

Appearance:

1. Special Civil Application No. 8033 of 1993
   MR SN SHELAT for Petitioner No. 1
   MR SV BACHANI for Respondent No. 1
   NOTICE SERVED for Respondent No. 2
2. Special Civil Application No. 7090 of 1985
   MR SN SHELAT for Petitioner No. 1
   MR SV BACHANI for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 14/02/2003

ORAL JUDGEMENT

The present petition is filed against the order passed by the Gujarat Affiliated Colleges Services Tribunal, Ahmedabad in the application No.119/1991 on 5-3-1993 whereby the Tribunal has held that the applicant was entitled to continue upto 14-6-1992 and he was deemed to be continued upto that date. The Tribunal has also directed the petitioner to pay the applicant the salaries for the period between 1-1-1992 and 14-6-1992. The Tribunal has made it clear in the said order that the decision rendered by it was subject to the outcome of the Special Civil Application No.9106/1991, which was pending before this Court at that time.

2) The case of the petitioner is that the respondent No.1, who was working as a Professor and Head of the Department of Mechanical Engineering in the petitioner college was due to superannuate on attaining the age of 60 years on 20th December, 1991. According to the Government Resolution dated 26th August, 1987 (Annexure-B), which was applicable to the college and the Term Schedule (Annexure "C") of the college the respondent No.1 was due to retire on 21-12-1991 from service. He was, however, sought to be retired from service from 31st December, 1991, as per earlier order, which was not prejudicial to his date of retirement as per Government Resolution dated 26-8-1997.

3) The respondent No.1 has sought the benefit of Government Resolution dated 11-12-1990 under which the date of retirement of the teaching staff of a college and the universities in the respective academic terms was directed to be 31st October and 14th June. The respondent No.1 approached the Affiliated College Services Tribunal by Application No.119/1991 which by its judgement and order dated 5-3-1999 upheld the claim of the respondent No.1 and declared that he was entitled to continue upto 14-6-1992 and further directed to the present petitioner to make payment of wages accordingly to the respondent No.1.

4) It is this order which was challenged by the petitioner in the present petition, inter alia, on the ground that the Resolution dated 11-12-1990 is not applicable to the petitioner college.

5) At the time of hearing of this petition, Mr.Mazgaokar, the learned advocate appearing for the petitioner submits that the respondent No.1 was already paid the amount on undertaking filed by him to the effect that if he looses in the petition, the amount would be recovered from him. Since the respondent No.1 retired

long back and the Tribunal has considered the beneficial aspect of the matter, this Court does not think it proper, therefore, to interfere in the order passed by the Tribunal, while exercising the prerogative writ jurisdiction under Article 226 of the Constitution of India. Accordingly, this petition is dismissed. Rule is discharged with no order as to costs.

(K.A.Puj, J.)

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